

# COUNCIL MEETING NOTICE AND AGENDA

WEDNESDAY, OCTOBER 21, 2015

8:30 A.M. OR SOON THEREAFTER

COUNCIL CHAMBERS

HISTORIC COUNTY BUILDING

4396 RICE STREET, SUITE 201

LĪHUʻE, KAUAʻI, HAWAII 96766

## A. MEETING CALLED TO ORDER.

## B. ROLL CALL.

## C. APPROVAL OF AGENDA.

## D. MINUTES of the following meeting of the Council:

1. September 16, 2015 Council Meeting

## E. CONSENT CALENDAR:

1. [C 2015-254](#) Communication (09/14/2015) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Wallace G. Rezentes, Jr., to the Board of Water Supply for the County of Kauaʻi – Term ending 12/31/2015.  
**(See Resolution No. 2015-59)**
2. [C 2015-255](#) Communication (10/01/2015) from the Hawaiʻi State Association of Counties (HSAC) President, transmitting for Council approval, the proposed HSAC Executive Committee for the term beginning in 2015, pursuant to Section 5 of the Bylaws of the HSAC, Inc., which was approved at the September 30, 2015 HSAC Special Executive Committee Meeting:
  - President: County of Maui  
(Michael P. Victorino, Maui County Council; Gladys Baisa-Alternate)
  - Vice President: County of Hawaiʻi  
(Dennis “Fresh” Onishi, Hawaiʻi County Council; Daniel K. Paleka, Jr.,-Alternate)
  - Treasurer: City and County of Honolulu  
(J. Ikaika Anderson, Honolulu City Council; Joey Manahan-Alternate)
  - Secretary: County of Kauaʻi  
(Mel Rapozo, Kauaʻi County Council; Ross Kagawa-Alternate)

3. [C 2015-256](#) Communication (10/05/2015) from the Director of Finance, transmitting for Council information, the First Quarter Statement of Equipment Purchases for Fiscal Year 2015-2016, pursuant to Section 17 of Ordinance No. B-2015-796, the Operating Budget of the County of Kaua'i for Fiscal Year 2015-2016.
4. [C 2015-257](#) Communication (10/06/2015) from Council Chair Rapozo, transmitting for Council consideration, a Resolution approving the proposed slate of Hawai'i State Association of Counties (HSAC) officers for the 2016 term (July 1, 2015 – June 30, 2016) as approved by the HSAC Executive Committee at its special meeting on September 30, 2015. (***See Resolution No. 2015-60***)
5. [C 2015-258](#) Communication (10/06/2015) from the County Attorney, transmitting for Council information, the Quarterly Report on Settled Claims against the County of Kaua'i from July 1, 2015 through September 30, 2015.
6. [C 2015-259](#) Communication (10/09/2015) from Councilmember Hooser, providing written disclosure of a possible conflict of interest and recusal, on Bill No. 2600, relating to the beneficial tax rate for property used for long term affordable rental, due to his previous enrollment in the County's Long Term Affordable Rental Tax Limit Program.
7. [C 2015-260](#) Communication (10/15/2015) from Council Vice Chair Kagawa, transmitting for Council consideration, a Resolution Expressing The Concern Of The Kaua'i County Council Over The Inflated Interisland Airfare Rates Charged By Hawaiian Airlines And Encouraging The Hawai'i State Legislature To Assist In Offering Relief To Interisland Travelers By Incentivizing Competition. (***See Resolution No. 2015-61***)
8. [C 2015-261](#) Communication (10/15/2015) from Council Chair Rapozo, transmitting for Council consideration, a Resolution amending Resolution No. 2015-02, Draft 1, Relating To The Rules Of The Council Of The Council Of Kaua'i For The Organization Of Committees And The Transaction Of Business. The proposed Resolution would amend Rule No. 5(c), relating to a member's participation in a matter after disclosure of a conflict of interest; Rule No. 11(c)(10), relating to the questioning of public speakers; and Rule No. 12(e)(1), relating to the questioning of speakers at a public hearing. (***See Resolution No. 2015-62***)

F. COMMUNICATIONS:

1. [C 2015-262](#) Communication (09/29/2015) from the Prosecuting Attorney, requesting Council approval to receive and expend grant funding from the State of Hawai'i, Office of Youth Services General Fund in the amount of \$25,000, to continue the Kaua'i Teen Court program via a subcontract with Hale 'Opio Kaua'i for their services from the period of November 1, 2015 to June 30, 2016.
2. [C 2015-263](#) Communication (10/02/2015) from the Assistant Chief Procurement Officer/Budget Chief, requesting Council approval to dispose of Procurement Work Folders (RFP (C4056)) and (IFB (#2872 - #2936)); Professional Services Regular (4-PROF-06/07, 1-PROF-07/08 thru 12-PROF-07/08); Professional Services Exempt (X7-PROF-05/06 thru X8-PROF-07/08); Sole Source Procurement documentation (Fiscal Year 2005-2008); Exempt Procurement documentation (Fiscal Year 2004-2008); Emergency Purchase documentation (Fiscal Year 2005-2008); Auction (SA-1-06 thru SA-3-07); and State Price Lists; pursuant to Section 46-43, Hawai'i Revised Statutes and Resolution No. 2008-39 (2008) as amended, which has been kept for over seven (7) years and are no longer of use or value.
3. [C 2015-264](#) Communication (10/07/2015) from Council Vice Chair Kagawa, transmitting for Council consideration, an amendment to Subsection 8-15.1(d), Kaua'i County Code 1987, as amended, to eliminate the sunset date for obtaining a building permit to construct an additional dwelling unit on other than residentially zoned lots. ***(See Proposed Draft Bill (No. 2601))***
4. [C 2015-265](#) Communication (10/13/2015) from the Prosecuting Attorney, requesting Council approval to receive and expend State funds in the amount of \$100,182, and approval to indemnify the State of Hawai'i, Department of the Attorney General, for the period of July 1, 2015 through June 30, 2016, for the continuation of the Kaua'i Career Criminal Prosecution Program. The funding will be expended on the salary and partial fringe benefits for the Special Prosecuting Attorney of the Career Criminal Prosecution staff.

G. LEGAL DOCUMENTS:

1. [C 2015-266](#) Communication (10/01/2015) from the Director of Parks & Recreation, recommending Council approval of a License Agreement with Boys & Girls Club of Hawai'i, a non-profit Hawai'i corporation, for three (3) portables and a portion of the grounds immediately surrounding the portables located at the Kaua'i War Memorial Convention Hall in Līhu'e, Kaua'i, Hawai'i, being a portion of Royal Patent 4480, Land Commission Award 7713, Apana, Part I to V. Kamāmalu, to be used for youth-related activities in the Līhu'e area.
  - License Agreement
  
2. [C 2015-267](#) Communication (10/05/2015) from the Mayor, recommending Council approval of a dedication deed to extend Kahana Street, by Lani Properties Corporation, a Hawai'i corporation, et al., to satisfy a condition of Subdivision C-2012-10, consolidation of Lot 8, Ho Enterprise Subdivision and Lot 33, and Subdivision of the same into Lot 8-A and Lot 33 – A, and cancelling easements AU-1 and AU-2, being portions of Grant 7959 to Manuel Correa and Grant 8930 to Roslyne G. Moura, at Kapa'a, Kaua'i, Hawai'i, Tax Map Key (TMK) No. (4) 4-6-12:124 and :125 (por.).
  - Dedication Deed

H. CLAIMS:

1. C 2015-268 Communication (09/29/2015) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Roberto R. Lapitan, for damages to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.
  
2. C 2015-269 Communication (10/01/2015) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Albert and Kathleen Melchor, for damages to their vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

3. C 2015-270 Communication (10/06/2015) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Mark Young, for damages to his rental vehicle and personal property, pursuant to Section 23.06, Charter of the County of Kaua'i.
4. C 2015-271 Communication (10/09/2015) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Charlene & John Clark, for personal injuries, lost wages and other damages, pursuant to Section 23.06, Charter of the County of Kaua'i.

#### I. COMMITTEE REPORTS:

##### 1. PUBLIC WORKS / PARKS & RECREATION COMMITTEE:

- a. **CR-PWPR 2015-14:** on PWPR 2015-05 Communication (08/05/2015) from Council Chair Rapozo, requesting the presence of the County Engineer, to provide an update on Kapaia Swinging Bridge and the efforts of the Administration to work with the Kapaia Foundation. **[Received for the Record.]**
- b. **CR-PWPR 2015-15:** on PWPR 2015-07 Communication (09/25/2015) from Committee Chair Kagawa, requesting the presence of the County Engineer, to provide a briefing regarding transfer station operations to include, but not be limited to, the following:
  - Status report on the deteriorated compactors located at the Hanalei, Kapa'a, and Hanapēpē refuse transfer stations; and
  - Recap detailing the factors that determined the need to modify the hours of operation at all transfer stations.**[Received for the Record.]**

**2. PLANNING COMMITTEE:****1. CR-PL 2015-18: on PL 2015-04**

Communication (09/24/2015) from Council Chair Rapozo, requesting the presence of the County Engineer and the Planning Director, to provide a briefing on the Lepeuli Fencing Project, to include the following:

- Timelines of the Shoreline Certification, Special Management Area Minor Permit, and Class I Zoning Permit.
- How will the application for a boundary interpretation with the State Land Use Commission relating to the Conservation District be handled and what County Agency will be taking the lead?
- What criteria was used to design the fencing? Address whether the following criteria was considered (important albatross launching area making the placement and design of the fencing critical; dogs and cats have been causing a problem for the protected migratory birds in this area).
- What Cultural practitioners were consulted?

**[Received for the Record.]**

**3. COMMITTEE OF THE WHOLE:****a. CR-COW 2015-12: on COW 2015-05**

Communication (10/07/2015) from Council Chair Rapozo, requesting the presence of the Executive on Aging, to provide an overview on the Agency on Elderly Affairs' 4-Year Area Plan on Aging (October 1, 2015 through September 30, 2019). **[Received for the Record.]**

J. RESOLUTIONS:

1. [Resolution No. 2015-59](#) – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE BOARD OF WATER SUPPLY (*Wallace G. Rezentes, Jr.*)
2. [Resolution No. 2015-60](#) – RESOLUTION APPROVING THE HAWAII STATE ASSOCIATION OF COUNTIES (HSAC) SLATE OF OFFICERS FOR FISCAL YEAR 2016
3. [Resolution No. 2015-61](#) – RESOLUTION EXPRESSING THE CONCERN OF THE KAUAI COUNTY COUNCIL OVER THE INFLATED INTERISLAND AIRFARE RATES CHARGED BY HAWAIIAN AIRLINES AND ENCOURAGING THE HAWAII STATE LEGISLATURE TO ASSIST IN OFFERING RELIEF TO INTERISLAND TRAVELERS BY INCENTIVIZING COMPETITION
4. [Resolution No. 2015-62](#) – RESOLUTION AMENDING RESOLUTION NO. 2015-02, DRAFT 1, RELATING TO THE RULES OF THE COUNCIL OF THE COUNTY OF KAUAI FOR THE ORGANIZATION OF COMMITTEES AND THE TRANSACTION OF BUSINESS

K. BILL FOR FIRST READING:

1. [Proposed Draft Bill \(No. 2601\)](#) – A BILL FOR AN ORDINANCE AMENDING SUBSECTION 8-15.1(d), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ADDITIONAL DWELLING UNIT ON OTHER THAN RESIDENTIALLY ZONED LOTS

L. EXECUTIVE SESSION: *Pursuant to Hawai'i Revised Statutes (HRS) §92-7(a), the Council may, when deemed necessary, hold an Executive Session on any agenda item without written public notice if the Executive Session was not anticipated in advance. Any such Executive Session shall be held pursuant to HRS §92-4 and shall be limited to those items described in HRS §92-5(a). (Confidential reports on file in the County Attorney's Office and/or the County Clerk's Office. Discussions held in Executive Session are closed to the public.)*

1. ES-814 Pursuant to Hawai'i Revised Statutes Sections 92-4 and 92-5(a)(2) and (4), and Kauai County Charter Section 3.07(E), the Kauai County Council requests an Executive Session with the County Attorney pertaining to the hiring of a County Auditor and to consult with the County's legal counsel. This Executive Session pertains to the hiring of a County Auditor where consideration of matters affecting privacy will be involved as they relate to this agenda item.  
***(Deferred October 7, 2015)***
2. ES-816 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kauai County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing, discussion, and consultation regarding the Quarterly Report on Pending and Denied Claims. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

3. ES-817 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to consult with the Council's legal counsel on questions and issues pertaining to the County's insurance policy with Everest National Insurance Company for attorneys' fees arising in connection with the lawsuit Tim Bynum vs. County of Kaua'i, et al., Civil No. 12-00523 RLP (U.S. District Court), to receive \$125,000.00 from Everest Insurance to reimburse the County for attorney's fees and costs, and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

#### M. ADJOURNMENT.

- N. PUBLIC HEARING NOTE: If the Council is not finished with this meeting by approximately 1:30 p.m., it will recess for a public hearing on the following. After the public hearing, the Council will reconvene to complete any unfinished business.

*[\*For complete information, including a summary of the item, please refer to the official Notice of Public Hearing. The official Notice of Public Hearing has been published, posted on the bulletin board, and filed in the County Clerk's Office as required by law. Notwithstanding this Council Agenda, the Council may hold a public hearing on any item which has been posted in advance in compliance with the Sunshine Law.]*

**For a copy of the notice, please go to:** <http://www.kauai.gov/Council/PublicHearings>

1. [Bill No. 2597](#) – A BILL FOR AN ORDINANCE TO AMEND ORDINANCE NO. B-2015-796, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2015 THROUGH JUNE 30, 2016, BY REVISING THE AMOUNTS ESTIMATED IN THE HIGHWAY FUND (*Puhi Road 20% County Match (Operating Budget) - \$268,000.00*)
2. [Bill No. 2598](#) – A BILL FOR AN ORDINANCE TO AMEND ORDINANCE NO. B-2015-797, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2015 THROUGH JUNE 30, 2016, BY REVISING THE AMOUNTS ESTIMATED IN THE HIGHWAY FUND CIP (*Puhi Road 20% County Match (CIP Budget) - \$268,000.00*)

- O. NOTE: SPECIAL ACCOMMODATIONS AND SIGN LANGUAGE INTERPRETER AND INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS ARE AVAILABLE UPON REQUEST FIVE (5) DAYS PRIOR TO THE MEETING DATE, TO THE COUNTY CLERK, 4396 RICE STREET, SUITE 209, LIHU'E, KAUAI, HAWAII 96766. TELEPHONE NO. (808) 241-4188. FACSIMILE NO. (808) 241-6349.

\*TO VIEW MEETINGS OR MEETING ARCHIVES, PLEASE VISIT: [WWW.KAUAI.GOV/WEBCASTMEETINGS](http://WWW.KAUAI.GOV/WEBCASTMEETINGS).